

**204 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-41173-2022 (O&M)

Date of Decision: 06.09.2023

SAJAN KUMAR @ BABLOO THATHAI

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. R.K. Girdhar, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Prabhjot Singh, Advocate
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of anticipatory bail to the petitioner in FIR No.119 dated 22.06.2022, under Sections 306/34 IPC registered at Police Station Sadar, District Fazilka.

2. Present FIR has originated out of a complaint case under Section 138 of Negotiable Instruments Act.

3. The Coordinate Bench, vide order dated 09.09.2022, granted interim bail to petitioner and the same reads as under:-

“Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.119 dated 22.06.2022, registered at Police Station Sadar Fazilka, under Sections 306 and 34 IPC.

Learned counsel for the petitioner contends that the only allegation against the petitioner is that he alongwith the co-accused used to harass and blackmail Mohit Kumar (since de-

ceased), son of the complainant. As per the contents of FIR, the complainant asked Mohit about convening a Panchayat on the next day, but Mohit disclosed that he was going to attend a Bhandara and would return after one week and then they would convene a Panchayat for settlement. However on 14.05.2022, the complainant was informed that his son had committed suicide by hanging himself at a hotel in Delhi.

Learned counsel for the petitioner contends that in fact, the petitioner was a good friend of the deceased; that there is no act of instigation or abetment attributed to the petitioner, and that there is no suicide note left by the deceased.

Notice of motion for 01.12.2022.

Meanwhile, the petitioner is directed to join investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police”.

4. Learned counsel on instructions from petitioner submits that in pursuance of aforesaid order, he has appeared before the learned trial Court and has been admitted to interim bail. Further submits that the absence of petitioner on earlier occasion was on account of non-service of summons upon him and not intentional.

5. After obtaining instructions, above factual position is not disputed by learned State Counsel.

6. In view of the above, this Court is of the opinion that sending the petitioner in custody at this stage would not serve any purpose. Consequently, the present petition is allowed and interim bail granted vide order dated 09.09.2022, is made absolute. Petitioner be admitted to bail on his furnishing

bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

8. The above observations may not be construed as an expression of opinion on the merits of the case.

9. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

06.09.2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No